



NOTICE OF RULE MAKING – Proposed Rules #13-03

The Washington State Liquor Control Board would like your input on the attached proposed rules to revise **WAC 314-28-030 Changes to the distiller and craft distiller license and WAC 314-28-050 What does a craft distillery license allow?**

This notice contains the actual text of the proposed rule. You can provide input by submitting written comments or by participating in the public hearing (see below).

This rule making is filed with the Office of the Code Reviser in the Washington State Register number # 13-03-149.

This notice can be found at <http://www.liq.wa.gov/laws/laws-and-rules> under Proposed Rules.

The Liquor Control Board encourages you to give input on this proposed rule. Following the comment period, the agency will hold at least one public hearing before the rule is adopted.

Public Comment

Please forward your initial comments to the Liquor Control Board by mail, e-mail, or fax by **February 27, 2013**.

By mail: Rules Coordinator
Liquor Control Board
P.O. Box 43080
Olympia, WA 98504-3080

By e-mail:
rules@liq.wa.gov

By fax:
360-360-664-9689

Public Hearing: **February 27, 2013**
10:00 a.m.
Washington State Liquor Control Board – Board Room
3000 Pacific Ave. S.E, Olympia, WA

Proposed Rule

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-28-030 Changes to the distiller and craft distiller license. (1) Beginning March 1, 2012, all distilleries licensed under RCW 66.24.140 and 66.24.145 may sell spirits of their own production directly to a licensed spirits distributor in the state of Washington and to a licensed spirits retailer in the state of Washington.

(2) Beginning June 1, 2012, a distiller may sell spirits of its own production to a customer for off-premises consumption, provided that the sale occurs when the customer is physically present at the licensed premises.

(3) A distiller or craft distillery may accept orders for spirits of their own production from, and deliver spirits to, customers. Spirits may be ordered in person at the licensed distillery or craft distillery location, by mail, telephone, internet, or by other similar methods. See WAC 314-28-050 for requirements for internet sales and delivery.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. 12-12-065, § 314-28-030, filed 6/5/12, effective 7/6/12.]

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-28-050 What does a craft distillery license allow? (1) A craft distillery license allows a licensee to:

(a) Produce sixty thousand proof gallons or less of spirits per calendar year. A "proof gallon" is one liquid gallon of spirits that is fifty percent alcohol at sixty degrees Fahrenheit;

(b) Sell spirits of its own production directly to a customer for off-premises consumption, provided that the sale occurs when the customer is physically present on the licensed premises. A licensee may sell no more than two liters per customer per day. A craft distiller may not sell liquor products of someone else's production;

(c) For sales on or after March 1, 2012, sell spirits of its own production to a licensed spirits distributor;

(d) For sales on or after March 1, 2012, sell spirits of its own production to a licensed spirits retailer in the state of Washington;

(e) Sell to out-of-state entities;

(f) Provide, free of charge, samples of spirits of its own production to persons on the distillery premises. Each sample must be one-half ounce or less, with no more than two ounces of samples provided per person per day. Samples must be unaltered, and anyone involved in the serving of such

samples must have a valid Class 12 alcohol server permit. Samples must be in compliance with RCW 66.28.040;

(g) Provide, free of charge, samples of spirits of its own production to retailers. Samples must be unaltered, and in compliance with RCW 66.28.040, 66.24.310 and WAC 314-64-08001. Samples are considered sales and are subject to taxes;

(h) Contract produce spirits for holders of a distiller or manufacturer license.

(2) A distillery or craft distillery licensee may accept orders for spirits from, and deliver spirits to, customers.

(a) **Resale.** Spirits shall not be for resale.

(b) **Stock location.** Spirits must come directly from the licensed distillery or craft distillery location.

(c) **How to place an order.** Spirits may be ordered in person at the licensed distillery or craft distillery location, by mail, telephone, internet, or by other similar methods.

(d) **Sales and payment.**

(i) Only a distillery or craft distillery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a distillery or craft distillery licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a distillery or craft distillery licensee.

(ii) All orders and payments shall be fully processed before spirits transfer ownership or, in the case of delivery, leaves a licensed distillery or craft distillery premises.

(iii) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(iv) Internet. To sell spirits via the internet, a new distillery or craft distillery license applicant must request internet-sales privileges in his or her application. An existing distillery or craft distillery licensee must notify the board prior to beginning internet sales.

(e) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(f) **Hours of delivery.** Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(g) **Age requirement.**

(i) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(ii) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(iii) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(h) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(i) **Containers and packaging.**

(i) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(ii) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(A) The package contains liquor;

(B) The recipient must be twenty-one years of age or older; and

(C) Delivery to intoxicated persons is prohibited.

(j) **Required information.**

(i) Records and files shall be retained at the distillery or craft distillery licensed premises. Each delivery sales record shall include the following:

(A) Name of the purchaser;

(B) Name of the person who accepts delivery;

(C) Street addresses of the purchaser and the delivery location; and

(D) Time and date of purchase and delivery.

(ii) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(iii) A sales record does not have to include the name of the delivery person, but it is encouraged.

(k) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display the distillery or craft distillery licensee's registered trade name.

(l) **Accountability.** A distillery or craft distillery licensee shall be accountable for all deliveries of liquor made on its behalf.

(m) **Violations.** The board may impose administrative enforcement action upon a distillery or craft distillery licensee, or suspend or revoke a distillery or craft distillery licensee's delivery privileges, or any combination thereof, should a distillery or craft distillery licensee violate any condition, requirement, or restriction.

(3) A craft distillery licensee may not sell directly to in-state retailers or in-state distributors until March 1, 2012.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. 12-12-065, § 314-28-050, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. 10-19-066, § 314-28-050, filed 9/15/10, effective 10/16/10; 09-02-011, § 314-28-050, filed 12/29/08, effective 1/29/09.]